Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	**CC Docket No. 01-92**
	)	

REPLY COMMENTS

OF

WEBLINK WIRELESS, INC.

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Dated: November 5, 2001

TABLE OF CONTENTS

SUMMARY

WebLink agrees that §§251 and 252 of the Communications Act should not be held to have superseded §332(c). Instead, the 1996 Act supplements previous legislation which provides the Commission, pursuant to §332(c), with the authority to issue CMRS specific rules, are not inconsistent with the requirements of §§251 and 252. It is WebLink's position that any alternative interpretation that the Commission has no jurisdiction to deal with CMRS areas of special concern or that the Commission may ignore the termination compensation requirements of §251(b) is simply not supportable.

WebLink joins PCIA and the Allied Personal Communications Industry Association of California in the conclusion that mandatory bill-and-keep is only permissible under the Act if there is a substantial mutuality of obligation between the parties for payment of reciprocal compensation. Since one-way paging carriers do not have a substantial mutuality of obligations for payment of reciprocal compensation, a mandatory bill-and-keep regime is contrary to the Act.

WebLink supports PCIA's conclusion that mandatory bill-and-keep would return LEC-Paging Interconnection to pre-1996 conditions. It has taken considerable time for paging carriers to implement interconnection arrangements and to recoup the costs of negotiating these agreements. If the rules were changed again, it would be very disruptive and costly to a paging industry that is struggling to provide competitive choices for subscribers.

Further, WebLink urges the Commission to assist the paging industry by affirming and improving existing interconnection rules. In particular, the Commission should require that costs for dedicated transport be based on the LECs' forward looking

economic costs. The Commission should affirm that the transit services provided by carriers are the responsibility of the originating carrier, and it should ensure that the existing LEC cost model for terminating should be maintained for terminating compensation, abandoning its requirement for paging carriers to demonstrate costs for terminating compensation.

Finally, as does PCIA, WebLink urges the Commission to retain the existing single point of interconnection in the LATA rule. There should be no requirement that carriers either establish POIs in each local calling area or allow LECs to impose access changes to CMRS carriers to deliver calls outside the local calling area.

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WebLink Wireless, Inc. ("WebLink"), by its attorneys, hereby submits its Reply Comments in the Notice of Proposed Rulemaking ("Notice") adopted by the Federal Communications Commission (the "FCC" or "Commission") on April 19, 2001 in the above-captioned proceeding.[1/] Based on the Comments filed in this proceeding, WebLink submits that the Commission should not alter the existing LEC-paging intercarrier compensation arrangement, which has had a tortured history and now has achieved some semblance of balance. Instead of mandatory bill-and-keep, the FCC should affirm and improve certain rules governing the LEC-paging carrier interconnection relationship.

The following is respectfully shown:

1/ *Developing a Unified Intercarrier Compensation Regime*, FCC 01-132 (Released April 27. 2001), 66 Fed. Reg. 28,410 (2001).

I.

INTRODUCTION

WebLink is a nationwide paging carrier located in Dallas, Texas. It is a leader in the wireless data industry, providing wireless email, wireless instant messaging, information on demand and traditional paging services throughout the United States.

WebLink participated in the Comments phase of this proceeding as a member of PCIA. Through its membership with PCIA, it has participated in proceedings that led to the Local Competition Order;[2/] the appeal of the Local Competition Order that resulted in the Eighth Circuit upholding the Local Competition Order rules with respect to CMRS carriers;[3/] and in federal and state-level interconnection matters. WebLink has negotiated voluntary interconnection agreements with major LECs under the rules promulgated in the Local Competition Order. Thus, WebLink has knowledge and experience in interconnection matters and accordingly, provides its Reply Comments in this proceeding.

II.

REGULATORY FRAMEWORK FOR LEC-PAGING INTERCONNECTION

In the Local Competition Order, the Commission found that both Sections 251-252 and Section 332(c) furnish independent bases for the Commission's jurisdiction over CMRS/LEC interconnection terms. The Commission emphasized that all relevant sections (201, 251, 252 and 332) of the Communications Act of 1934, as amended by the

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[2/] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd 15499 ("Local Competition Order"), aff'd in part and vacated in part sub nom. *Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. V. FCC*, 120 F.3d 753 (8th Cir. 1997), aff'd in part and remanded, *AT&T v. Iowa Utils. Bd.,* 525 U.S. 366 (1999).

Telecommunications Act of 1996 ("Act") were designed to achieve the common goal of establishing interconnection on terms and conditions that are just, reasonable and fair, stating, "It is consistent with the broad authority of these provisions to hold that we may apply Sections 251 and 252 to LEC/CMRS interconnection." [4/]

Consistent with the usual standards of statutory interpretation and absent an express provision or a direct conflict in terms, Sections 251 and 252 should not be held to have superseded Section 332(c). Instead, the 1996 Act supplements previous legislation, which means that the Commission may issue uniform CMRS-specific rules pursuant to Section 332(c), provided such rules are not inconsistent with Sections 251 and 252. The Eighth Circuit in Iowa Utilities Bd., [5/] found Section 332(c) continues to be in force, and constitutes an independent ground for the Commission to issue rules "of special concern to CMRS providers." Areas of "special concern" to CMRS include default pricing, TELRIC methodology, and bill-and-keep.

While Section 332(c) constitutes an independent basis for addressing CMRS areas of special concern, the FCC's rulemaking authority under Section 332(c) does not permit it to ignore the mandates of Sections 251 and 252. The 1996 amendments to the Act post-date Section 332(c), and clearly apply to all telecommunications carriers. "Telecommunications Carriers" are defined in the statute to include CMRS providers, both one-way and two-way. [6/]

Taken together, the Local Competition Order and the judicial findings by the Eighth and the Ninth Circuits have determined the relationship between Sections 251-252

3/ *Iowa Utils. Bd. V. FCC*, 120 F.3d 753, n.21 (8th Cir. 1997) ("Iowa Utils. Bd.")

4/ *Local Competition Order at 1023.*

5/ *Iowa Utilities Bd.*, 753 nn. 21 and 39.

6/ 47 U.S.C. §§3(27)(44), 251(a); 332(d). See *Cook Telecom v. Pacific Bell*, 197 F.3d 1236 (9th Cir.

and Section 332(c). Any alternative explanation that the Commission has no jurisdiction because of Section 332(c), or that the Commission is empowered entirely to ignore the termination compensation rule of Section 251(b) is not supportable against these precedents.

The passage of the 1996 amendments to the Communications Act elevated termination compensation for CMRS providers to a statutory entitlement. Therefore, the Commission, while it may previously have had the power to modify Section 20.11(b) of its rules, may not now eliminate the mutual compensation requirement unless there is a substantial offsetting of reciprocal obligations, under Sections 251-252 and 332.

III.

THE COMMISSION CANNOT MANDATE BILL-AND-KEEP FOR LEC-PAGING INTERCONNECTION

In the Comments, a majority of the respondents across the board was opposed to the concept of the Commission's mandatory bill-and-keep regime and thus, it appears that such a proposal is not acceptable to a wide range of the respondents. However, paging carriers in particular stand to suffer under such an FCC imposed mandatory regulatory framework. Further, it is WebLink's position that such a mandatory bill-and-keep for paging carriers is statutorily impermissible.

WebLink agrees with the Comments of Personal Communications Industry Association ("PCIA") and the Allied Personal Communications Industry Association of California ("Allied") in that a mandatory bill-and-keep regime is only permissible under the Act if there is a substantial mutuality of obligation between the parties for payment of reciprocal compensation. A mandatory bill-and-keep regime would be contrary to the

1999).

Act for LEC-paging interconnection therefore, since one-way paging carriers do not have a substantial mutuality of obligation for payment of reciprocal compensation.

Under Section 251(b)(5), all CMRS carriers, including paging carriers, are entitled to reciprocal compensation to recover their additional costs for the transport and termination of telecommunications. In the Local Competition Order, the Commission stated that "all CMRS providers provide telecommunications and that LECs are obligated pursuant to Section 251(b)(5) (and the corresponding pricing standards of Section 252(d)(2)) to enter into reciprocal compensation arrangements with all CMRS providers, including paging providers for the transport and termination of traffic" on the CMRS providers network.[7/] The Commission also found that "carrier[s] incur costs in terminating traffic that are not de minimus." [8/] The conclusions in the Local Competition Order that paging carriers incur additional costs and are entitled to reciprocal compensation under Section 251(b)(5) are still viable today. Paging carriers still provide telecommunications as defined by the Act and incur additional costs to transport and terminate calls originated in LECs. Based on these facts, WebLink submits that there is no realistic way of reading Sections 251 and 252 that can deprive paging carriers of termination compensation in these circumstances.

As Allied points out in its Comments at 5, paging includes two-way paging, because it is in reality one-way in nature with respect to interconnection with the public switched telephone network. In paging, the party initiating the communication is a LEC customer who is billed by the LEC for placing the call. While the paging customer may benefit from the transaction, the choice remains with the calling party, just as it does in

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7/ *Local Competition Order* at ¶1008 (Emphasis Added).
8/ *Local Competition Order* at ¶1112.

the landline-to-landline context. Paging compensation rates are not subject to the symmetricality presumption of 47 C.F.R. §51.711(a)(b); and thus, paging carriers must prove their own TELRIC. Where, as in paging, traffic is entirely land-line-originated, and there is no showing of offsetting costs (as described in Section 252(d)(2)(B)), compensation must be paid to the terminating carrier under Sections 251(b) and 252(d)(2). Thus, mandatory bill-and-keep would be unlawful in those circumstances.

With respect to recovering added costs from its own users,[9] WebLink agrees with PCIA, Comments at 8, that substituting a regime where carriers recover their costs from their own end users instead of from either the originating carrier or the offsetting of reciprocal obligations is difficult to reconcile with the language of Section 251(b)(5). Section 251(b)(5) provides that each local exchange carrier shall "establish reciprocal compensation arrangements for the transport and termination of traffic." Furthermore, Section 252(d)(2) provides that the terms for reciprocal compensation shall not be considered just and reasonable unless the terms and conditions "provide for the mutual and reciprocal recovery of each carrier of costs associated with the transport and termination of each carrier's network facilities that originate on the network facilities of the other carrier." Finally, while Section 252(d)(2)(B)(i) does not preclude bill-and-keep, it is only justified by the offsetting of reciprocal obligations. These statutory sections, read together, clearly contemplate that recovery for costs must either be through the offsetting of substantial reciprocal obligations or reciprocal payments *between carriers*. The recovery by a paging carrier of costs from its own end users is not part of the statutory scheme and cannot substitute for it.

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[9] *Notice* at ¶76.

The Local Competition Order [10/] at ¶1113, did find that parties could voluntarily agree to bill-and-keep. Further, in some circumstances, which include balanced traffic and symmetrical costs, state commissions could require bill-and-keep. However, there is no justification for depriving paging carriers of the right to receive terminating compensation to defray the costs associated with transport and termination of another carrier's traffic by mandating bill-and-keep.

IV.

PRACTICAL EFFECTS OF MANDATORY BILL-AND-KEEP FOR LEC-PAGING INTERCONNECTION

A. Mandatory Bill-And-Keep Will Return LEC-Paging Interconnection To Pre-1996 Conditions

As PCIA points out in its Comments at page 10, under mandatory bill-and-keep, paging carriers would be required to recover their additional costs to terminate LEC-originated traffic from their own end users. Because of the present migration away from paging service to two-way services, the surviving paging carriers cannot further erode their subscriber base due to a non-marketplace based regulatory requirement. Further, since the originating carrier has no obligation under a bill-and-keep regime to reimburse transport costs, the LECs - based on historical patterns - will be motivated to shift all transport costs and obligations onto the paging carrier and/or the paging carrier's end users. Prior to the 1996 Act, and despite the clear direction of FCC Regulations, paging carriers bore all costs of transporting and terminating LEC-originated calls.

The shifting of LEC transport costs to paging carriers will occur through LEC restrictions on how and where paging carriers may interconnect. LECs have long

[10/] *Local Competition Order* at ¶1113 recognized the benefit of shifting transport costs to paging carriers because the unidirectionality of traffic shields them from any "reciprocal" obligations. It is only because the FCC has interpreted Section 51.703(b) as obligating LECs to pay for the facilities used to deliver their traffic to paging carriers that any semblance of fairness has been achieved in allocating the costs of facilities. The U.S. Court of Appeals, D.C. Circuit, in the TSR Appeal, [11/] has recently affirmed the FCC interpretation of the requirements of Section 51.703(b). If bill-and-keep is implemented for LEC-paging interconnection, the LECs would again force paging carriers into uneconomic interconnection arrangements where paging carriers would pay all costs of interconnection and transport. WebLink estimates that these additional charges could be significant and into the hundreds of thousands dollars per month. To allow the LECs to reinstate the charges previously found to be prohibited would return paging carriers to the same unfair position they were in prior to the passage of the Telecommunications Act of 1996.

B. Mandatory Bill-And-Keep for LEC-Paging Interconnection Would Cause Further Disruptions in the Paging Industry

While the LECs immediately entered into post-1996 Act interconnection agreements with other telecommunication carriers, including CMRS carriers, many LECs refused until recently even to agree that paging carriers are entitled to the benefits of the

[11/] *TSR Wireless v. U.S. WEST Communications, Inc.*, 15 FCC Rcd 11166 2000 WL 796703 (the "TSR Order"), aff'd sub nom., *U.S. WEST Communications, Inc. v. Federal Communications Commission No. 00-1376*, 2001 U.S. App. LEXIS 13389 (June 15, 2001), *petition for rehearing en banc denied ("TSR Appeal").*

Act,[12] let alone to enter into any agreements that reflected paging carriers' rights under the 1996 Act. It is only through the assistance of the FCC that progress has been made.[13] Even then, the LECs refused to follow the FCC's instructions.

For instance, although the Commission clearly stated in the Metzger Letter [14] that LECs were prohibited from charging for the facilities used to deliver their traffic to paging carriers, some LECs, such as Qwest, argued that the Metzger Letter was not the policy of the Commission and asked state commissions and courts to disregard it. Further, even after the Commission released the TSR Order, some LECs appealed it to the D.C. Circuit. Now, at least one LEC, BellSouth Telecommunications, Inc., is reducing reciprocal compensation to paging carriers pursuant to ISP-Remand Order,[15] at Paragraph 89, on the premise that the FCC requires nondiscrimination between carriers, including paging. This reduction is done despite the fact that paging carriers are generally not even able to provide ISP service.

With this history in mind, if bill-and-keep is adopted for LEC-paging interconnection, the Commission is certain to see a replay of the last several years with major disputes erupting between the LECs and the paging carriers on the obligations of each party under the new Commission Rules. This obviously would not serve the public interest.

12/ *See TSR Order*, *Cook v. Pacific Bell, AirTouch Paging of California v. Pacific Bell,* 1999 U.S. Dist. LEXIS 16615 (N.D. Cal. 1999) ("AirTouch Paging v. Pacific Bell") *BellSouth Corporation v. AirTouch Paging*, Civ. Act No. 98-CV-0293-JOF(N.D.Ga.) and *AirTouch Paging v. US WEST Communications*, Civ. Act. No. 99-WM-12 (Colo. Dist Ct). Indeed, as recently as this year, the LECs continued to argue in the *TSR Appeal* that paging carriers are not entitled to the benefits of the Act.

13/ *See TSR Order*, and precedents cited therein.

14/ Letter from Common Carrier Bureau A. Richard Metzger, Jr. to Keith Davis, et al., DA 97-2726, CCB/CPD No. 97-24, released December 30, 1997, 13 FCC Rcd 184, 185 (1997)(the "*Metzger Letter*").

15/ *See Implementation of the local Competition Provisions in the Telecommunications Act of 1996*

Further, now that paging carriers finally have been able to secure going forward agreements with the largest LECs that provide for the recovery of some of the additional costs associated with transport and termination of LEC-originated calls, paging carriers are re-engineering their networks and interconnection arrangements to implement these new interconnection agreements.[16/] It is taking considerable time for these new arrangements to be implemented and for paging carriers to recoup the costs of negotiating new interconnection agreements and re-engineering their networks.[17/] After all of that, changing the rules again would be very disruptive and costly, since the paging industry will not have even completed the implementation of the present rules before begin forced to shift gears once again – with the prospect of another delay of many years to get new agreements in place. The Commission is obligated to consider such industry disruptions in its regulatory actions. See, for example, First Report and Order, Access Charge Reform. [18/]

C. Mandating Bill-And-Keep For Paging Carriers Would Be Discriminatory

Requiring mandatory bill-and-keep for LEC-paging interconnection would not be win-win because of the harsh effect it would have on carriers authorized to provide one-way services only. Since paging carriers do not originate traffic and thus pay no terminating compensation to LECs under the current scheme, they have no savings under

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(CC Docket No. 96-98); *Intercarrier Compensation for ISP-Bound Traffic,* 16 FCC Rcd. 9151 (2001) ("*ISP-Remand Order*").

16/ For example, many LEC-paging interconnection agreements place restrictions on the retention or implementation of new Type 1 (end-office level) interconnections and as a consequence paging carriers are in the midst of converting to Type 2 (tandem level) interconnection.

17/ The costs associated with negotiating these new interconnection agreements were substantial. In many instances, substantial effort was required to force the LECs to recognize their responsibilities under the Act and in many instances litigation was required to force an interconnection agreement that comported with the Act.

18/ *First Report and Order*, Access Charge Reform 12 FCC Rcd 15985, 16002 (1997).

a bill-and-keep plan to defray the additional costs of transporting and terminating LEC-originated traffic. Given the state of the industry, paging carriers are in no position to raise end-user rates to cover these costs which are required by the Act to be paid by the originating party. As the Commission itself has observed on numerous occasions, the market for paging services is highly competitive.[19/] Paging services also face substantial competition from other CMRS services, such as enhanced SMR services, broadband PCS and cellular.[20/]

Further, one-way paging services generally are billed on a flat fee basis, rather than on a usage sensitive basis. Forcing such paging carriers to recoup what will be variable interconnection costs from their own customers could mandate the implementation of costly usage sensitive billing systems. Again, this would place an undue burden on paging carriers.

D. No Paging Regulatory Arbitrage

Mandatory bill-and-keep is not required to eliminate regulatory arbitrage in the paging arena even if arbitrage is a concern in other sectors of the telecommunications business.[21/] In the period of time since the passage of the 1996 Act, the number of providers of paging service has been declining, not increasing, which dispels any notion that paging interconnection compensation presents a real arbitrage opportunity.

Paging carriers provide one-way services because one-way services are the only services that they are authorized to provide under the terms of their licenses. In addition,

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19/ *Sixth Report* at p. 56.

20/ *Sixth Report* at p. 56.

21/ *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996* (CC Docket No. 96-98); *ISP-Remand Order* at ¶67-76; *See also Access Charge Reform; Reform of Access Charges Imposed by Competitive Local Exchange Carriers*; *(*CC Docket No. 96-262), FCC 01-146, (released April 27, 2001).

paging terminating compensation is available to carriers that are licensed as paging carriers, and only for the markets in which they hold paging authorizations.

Further, the LEC may limit any terminating compensation to the actual proven forward-looking costs incurred by the paging carrier. These forward-looking costs are likely to be less than actual costs incurred by the carrier to provide service which clearly dampens any arbitrage opportunities. Paging calls are short in duration (often less than 20 seconds per call) than average wireline call length. Thus, the rates for terminating paging calls clearly fit within the assumptions used to generate the LEC rates. Finally, in most cases, the terminating compensation being paid to paging carriers is equal to or less than the same rates paid by LECs to other LECs or CMRS carriers and offers no arbitrage opportunity if the Commission continues the existing intercarrier regime for LEC-paging interconnection.

If the Commission adopted the same intercarrier regime for all CMRS traffic, paging carriers would be disadvantaged. This would result in a regulatory skewing of the marketplace: the Commission's regulations, not the marketplace, would end up choosing the competitive winners and losers. For example, if the Commission adopted mandatory bill-and-keep for all CMRS services, paging carriers would have higher costs than other wireless competitors, such as cellular, enhanced SMR and broadband PCS, which would disadvantage paging carriers and would inevitably lead to customers switching to the now lower cost CMRS services.

V.

THE COMMISSION SHOULD PROVIDE INTERCONNECTION ASSISTANCE TO THE PAGING INDUSTRY

WebLink submits that the Commission should assist the lagging paging industry not by injuring it further by mandatory bill-and-keep but by affirming and improving existing interconnection rules, as described by PCIA in its Comments at 19-35, with respect to a forward-looking economic cost basis for dedicated transport; requiring that transit services be paid by the originating carrier; employing the LEC cost model for paging terminating compensation; and retaining the existing single POI in the LATA regime.

A. The Commission Should Require That Costs for Dedicated Transport be Based on a LEC's Forward-Looking Economic Costs

The Local Competition Order and the Commission's Rules promulgated from it provide that the additional costs for transport of telecommunications would be at a carrier's forward-looking costs.[22/] However, many LECs have resisted providing transport to paging carriers at the LEC's forward-looking costs. Instead, most of the current LEC-paging interconnection agreements require transport be paid at the equivalent of access tariff rates. That is improper because Section 252(d)(2) requires that transport be priced at a carrier's forward-looking costs (e.g. TELRIC). And, the plain language of Sections 252(d)(1) and 252(d)(2) indicates that the same standards should be

22/ *Local Competition Order* at ¶¶1054, 1111-1118.

used both for unbundled network elements and transport costs – e.g. forward-looking costs. [23/]

The Commission drew certain distinctions between interconnection and transport in the Local Competition Order, [24/] and many LECs have seized upon these distinctions to argue that transport used solely for interconnection does not need to be provided at the LEC's forward-looking costs. In addition, many LECs take the position that, since transport for transit traffic is only for a portion of a LEC facility, the most appropriate rates for that portion of the facility should be the LEC's tariffed access rates and not the LEC's forward-looking costs of providing such transport. However, this approach is not what is prescribed in Sections 252(d)(1) and 252(d)(2).

B. The Commission Should Reaffirm That Transit Services Provided by Carriers Are The Responsibility of the Originating Carrier

The current rules provide that it is the responsibility of the originating carrier to pay all additional costs associated with the transport and termination of traffic originating on its network.[25/] In addition, the existing rules provide that carriers may interconnect either directly or indirectly.[26/] If a carrier interconnects indirectly, it makes sense for the originating carrier to be responsible for paying all costs associated with transiting the network of third party carriers. The originating carrier is the one deciding how it wants to interconnect with and deliver its traffic to the terminating carrier and therefore it should pay all costs associated with the form of interconnection it has undertaken.

23/ Section 252(d)(1) provides rates for interconnection of facilities and equipment for interconnection and network elements shall be based on "the cost… of providing the interconnection or network element…." And Section 252(d)(2) provides that the costs for transport and termination shall be based on "a reasonable approximation of the additional costs of terminating such calls."

24/ *See Local Competition Order* at ¶¶1039-1040.

25/ §51.703(a). *See also Notice at ¶¶8-9.*

Nevertheless, most if not all LECS still require paging carriers to pay for the portion of the LEC facilities used by the originating carrier. Further, the LECS have seized upon footnote 70 in the TSR Order, which states that paging carriers "are required to pay for 'transiting traffic," to argue that paging carriers are required to pay for transit traffic even though other CMRS carriers are generally not required to pay for transit traffic originating on the network of other carriers and the LECs are fully recovering all their costs from the originating carrier. Since it is the LEC and the originating carrier that have agreed to use the LEC facilities for transit, the originating carrier should pay the LEC for all the costs of transiting its traffic to the terminating carrier, including the costs associated with the facilities used by the LEC to transport the traffic to the paging network.

C. The Commission Should Retain the Existing LEC Cost Model for Terminating Compensation And Should Abandon its Requirement For Paging Carriers to Demonstrate Costs for Terminating Compensation

In the Local Competition Order, the Commission determined that the LEC's forward-looking costs to terminate telecommunications on its network is a reasonable proxy for the costs incurred by broadband CMRS carriers to terminate calls on their networks[27/] and allowed broadband CMRS providers to charge the same rates (e.g., symmetrical rates) for calls terminating on their network that are charged by the LEC for call terminated on its network. The adoption of the Local Competition Order, the symmetrical rates presumption has fostered prompt agreements between two-way CMRS carriers and LECs.

26/ §51.700(a)(1) and 251(a)(1).

27/ *Local Competition Order* at ¶¶1085-1089.

Also in the Local Competition Order, the Commission determined that it did not have sufficient information to determine whether a paging carrier's costs were similar to the LECs' costs. The Commission therefore required paging carriers to provide their forward-looking costs. This requirement is burdensome and paging carriers must incur substantial transaction costs to prove their forward-looking costs.

Because there have been a sufficient number of cost studies performed by paging carriers and voluntary agreements reached between LECs and paging carriers since the Local Competition Order, the Commission can now conclude that the costs of paging carriers are no different than LECs or other CMRS carriers. In addition, many of the LECs have contractually agreed to termination compensation rates for paging carriers which are the same as other LEC or CMRS rates. There can no longer be any reasonable doubt that paging carriers incur at least the same forward-looking costs as LECs to terminate calls. Since paging carriers offer services competitive with other CMRS services, they are entitled to be paid at least the same rate as other CMRS carriers; any lower rate would be discriminatory and not technology neutral. Therefore, the Commission should mandate that paging carriers be allowed to adopt, at their option, either the symmetrical rate charged by the LEC to terminate calls originated by other carriers on its network or the same rate paid to other CMRS carriers.

Further, the Commission recently observed in the Notice, a CMRS carrier should be entitled to recover its costs to terminate a call in excess of this proxy rate if the CMRS carrier can demonstrate that its additional costs to transport and terminate are higher than the LEC's rate. Therefore, if a paging carrier can prove that its forward-looking costs to terminate call on its network are more than the symmetrical rate, the paging carrier should be entitled to recover those higher costs.

D. Point of Interconnection

WebLink concurs with PCIA in its Comments at pages 28-33, that the Commission should retain the existing single POI in the LATA Rule and should not adopt any requirement that carriers either establish POIs in each local calling area or allow LECs to impose access charges on CMRS carriers to deliver calls outside the LECs local calling area.

VI.

CONCLUSION

WHEREFORE, the foregoing having been duly considered, WebLink Wireless, Inc. respectfully submits that the Commission should not adopt mandatory bill-and-keep, for paging-LEC interconnection. Further, WebLink Wireless, Inc. respectfully requests that the Commission adopt the clarification and improvements to the existing intercarrier compensation scheme recommended by PCIA.

Respectfully submitted,

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38076v1/mwd